

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2672**

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**Introduced by Assembly Member Cook**

February 19, 2010

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~~An act to add Article 10 (commencing with Section 53170) to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, relating to local government. An act to amend Section 1771 of, and to add Section 1770.5 to, the Government Code, relating to local government.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 2672, as amended, ~~Cook. County transportation commissions and special act agencies. Public officers and employees: removal from office.~~

*Under existing law, an office becomes vacant on the occurrence of certain events. Existing law specifies that when a public officer is removed, declared insane, or convicted of a felony or offense involving a violation of his or her official duty, or when his or her election or appointment is declared void, the body or person before whom the proceedings are had is required to give notice thereof to the officer empowered to fill the vacancy.*

*This bill would provide that an appointed individual also vacates an office where the individual has been debarred, suspended, disqualified, or otherwise excluded from participating in federal "covered transactions," as prescribed under federal law.*

~~Existing law establishes county transportation commissions. Existing law also establishes various agencies and prescribes their membership~~

composition. Existing federal law prohibits an individual who has been debarred, suspended, disqualified, or otherwise excluded from participating in federal covered transactions.

This bill prohibits a county transportation commission, a special act agency, and any other entity whose membership is defined by statute, from permitting an excluded individual to participate in, be appointed to, or sit as a member on the agency's governing board or one of its committees. This bill requires an excluded individual to vacate his or her seat on an agency's governing board and its committees upon notification from a federal agency that he or she has been debarred, suspended, disqualified, or otherwise excluded from participating in federal covered transactions, or if he or she voluntarily excludes himself or herself from participating in federal covered transactions. This bill authorizes an agency affected by its provisions to adopt rules and regulations necessary for its implementation.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. It is the intent of the Legislature to provide a*  
2     *county transportation commission, a special act agency, or any*  
3     *other entity whose membership composition is prescribed by*  
4     *statute, with the authority to immediately remove an individual*  
5     *who is debarred, suspended, disqualified, or otherwise excluded*  
6     *from participating in a federal covered transaction pursuant to*  
7     *federal law, including, but not limited to, Part 180 (commencing*  
8     *with Section 180.5) of Chapter I and Part 215 (commencing with*  
9     *Section 215.0) of Chapter II of Subtitle A of Title 2 of the Code of*  
10    *Federal Regulations. It is the further intent of the Legislature that*  
11    *this authority be limited to requiring a debarred, suspended,*  
12    *disqualified, or other excluded individual to vacate his or her*  
13    *respective seat in the commission, agency, or the committee of a*  
14    *commission or agency, and not to eliminate the representative seat*  
15    *or position that the terminated individual held.*

16    *SEC. 2. Section 1770.5 is added to the Government Code, to*  
17    *read:*

18    *1770.5. (a) For appointed individuals, the vacating of office*  
19    *pursuant to subdivision (h) of Section 1770 shall include an*  
20    *individual who has been debarred, suspended, disqualified, or*

1 otherwise excluded from participating in federal “covered  
2 transactions” pursuant to federal law, including, but not limited  
3 to, Part 180 (commencing with Section 180.5) of Chapter I and  
4 Part 215 (commencing with Section 215.0) of Chapter II of Subtitle  
5 A of Title 2 of the Code of Federal Regulations.

6 (b) For purposes of this section, “appointed individual” means  
7 an individual appointed to an agency, board, commission,  
8 committee, or any other governing body by a legislative body of  
9 a city or county.

10 (c) This section shall not apply if either of the following occurs:

11 (1) A federal agency grants an appointed individual subject to  
12 subdivision (a) an exception in writing to participate in a particular  
13 covered transaction, but only to the extent the exception makes  
14 the individual eligible to participate in federal covered  
15 transactions.

16 (2) An appointed individual subject to subdivision (a) is removed  
17 from the federal Excluded Parties List System.

18 SEC. 3. Section 1771 of the Government Code is amended to  
19 read:

20 1771. When an officer is removed, declared insane, or  
21 convicted of a felony or offense involving a violation of his or her  
22 official duty, or when his or her election or appointment is declared  
23 void, or when an appointed individual vacates office pursuant to  
24 Section 1770.5, the body or person before whom the proceedings  
25 are had shall give notice thereof to the officer or body empowered  
26 to fill the vacancy.

27 ~~SECTION 1. Article 10 (commencing with Section 53170) is~~  
28 ~~added to Chapter 1 of Part 1 of Division 2 of Title 5 of the~~  
29 ~~Government Code, to read:~~  
30

31 ~~Article 10. Removal of Debarred, Suspended, Excluded, or~~  
32 ~~Ineligible Individuals from Commissions and Agencies~~  
33

34 ~~53170. This article shall be known and may be cited as the~~  
35 ~~Removal of Excluded Individuals Act.~~

36 ~~53170.1. It is the intent of the Legislature in enacting this article~~  
37 ~~to provide a county transportation commission, a special act~~  
38 ~~agency, or any other entity whose membership composition is~~  
39 ~~prescribed by statute, with the authority to immediately remove~~  
40 ~~an individual who is debarred, suspended, disqualified, or otherwise~~

1 ~~excluded from participating in a federal covered transaction~~  
2 ~~pursuant to federal law, including, but not limited to, Part 180~~  
3 ~~(commencing with Section 180.5) of Chapter I and Part 215~~  
4 ~~(commencing with Section 215.0) of Chapter II of Subtitle A of~~  
5 ~~Title 2 of the Code of Federal Regulations. It is the further intent~~  
6 ~~of the Legislature that this authority be limited to requiring a~~  
7 ~~debarred, suspended, disqualified, or other excluded individual to~~  
8 ~~vacate his or her respective seat in the commission, agency, or the~~  
9 ~~committee of a commission or agency, and not to eliminate the~~  
10 ~~representative seat or position that the terminated individual held.~~

11 ~~53170.2. For purposes of this article, the definitions set forth~~  
12 ~~in Part 180 (commencing with Section 180.5) of Chapter I and~~  
13 ~~Part 215 (commencing with Section 215.0) of Chapter II of Subtitle~~  
14 ~~A of Title 2 of the Code of Federal Regulations shall apply, unless~~  
15 ~~otherwise stated.~~

16 ~~53170.3. For purposes of this article, the following terms shall~~  
17 ~~have the following meanings:~~

18 ~~(a) “County transportation commission” means a commission~~  
19 ~~as defined in Section 130002 of the Public Utilities Code.~~

20 ~~(b) “Excluded individual” means an individual who has been~~  
21 ~~debarred, suspended, disqualified, or otherwise excluded from~~  
22 ~~participating in federal covered transactions pursuant to federal~~  
23 ~~law, including, but not limited to, Part 180 (commencing with~~  
24 ~~Section 180.5) of Chapter I and Part 215 (commencing with Section~~  
25 ~~215.0) of Chapter II of Subtitle A of Title 2 of the Code of Federal~~  
26 ~~Regulations.~~

27 ~~(c) “Special act agency” means a regional agency whose~~  
28 ~~membership composition is set forth in its enabling act, and the~~  
29 ~~enabling act does not authorize the agency to remove an individual~~  
30 ~~from its governing board or its committees if the individual is~~  
31 ~~debarred, suspended, disqualified, or otherwise excluded from~~  
32 ~~participating in a federal covered transaction pursuant to federal~~  
33 ~~law.~~

34 ~~53170.4. (a) A county transportation commission, a special~~  
35 ~~act agency, or any other entity whose membership is defined by~~  
36 ~~statute, shall not permit an excluded individual to participate in,~~  
37 ~~be appointed to, or sit as a member on its governing board or one~~  
38 ~~of its committees.~~

39 ~~(b) An individual who sits on the governing board or a~~  
40 ~~committee of an agency that is subject to subdivision (a) shall~~

1 immediately vacate his or her seat upon notification from a federal  
2 agency that he or she is debarred, suspended, disqualified, or  
3 otherwise excluded from participating in federal covered  
4 transactions pursuant to federal law. An individual who voluntarily  
5 excludes himself or herself from participating in federal covered  
6 transactions shall also vacate his or her seat.

7 (e) A vacated seat does not infringe upon an agency's right to  
8 retain the seat. If a replacement or alternate member is not available  
9 to fill a vacant seat, the seat shall remain vacant until the agency  
10 finds a qualified replacement, who is not an excluded individual,  
11 to fill the seat.

12 (d) This section does not apply if one of the following occurs:

13 (1) A federal agency grants an excluded individual an exception,  
14 in writing, to participate in a particular covered transaction, but  
15 only to the extent that the exception makes the individual eligible  
16 to participate in federal covered transactions.

17 (2) An excluded individual is removed from the federal  
18 Excluded Parties List System.

19 53170.5. An agency affected by this article shall have the  
20 authority to adopt rules and regulations necessary to implement  
21 this article.